

229042

**EXPEDITED CONSIDERATION REQUESTED**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

CARGILL, INCORPORATED	)	
	)	
Complainant,	)	
	)	
v.	)	Docket No. 42120
	)	
BNSF RAILWAY COMPANY	)	
	)	
Defendant.	)	

ENTERED  
Office of Proceedings  
MAR 25 2011  
Part of  
Public Record

**JOINT MOTION TO AMEND THE PROCEDURAL SCHEDULE**

Pursuant to 49 C.F.R. §§ 1104.7(b) and 1115.5(a) Complainant Cargill, Incorporated ("Cargill") and Defendant BNSF Railway Company ("BNSF") file this Joint Motion to Amend the Procedural Schedule and in support hereof state as follows:

(1) In its decision served in this proceeding on January 4, 2011, the Board issued the following procedural schedule to apply in this proceeding:

January 4, 2011	Discovery Commences
April 4, 2011	End of Discovery
June 3, 2011	Cargill Opening Statement Due
August 2, 2011	BNSF Reply Statement Due
September 1, 2011	Cargill Rebuttal Statement Due

(2) Yesterday, the Director of the Office of Proceedings issued an order stating that the Board was going to decide BNSF's pending Motion to Compel and that "if necessary, [the Board] will issue a revised procedural schedule." Director's Decision at 2.

(3) The parties agree that matters not at issue in BNSF's Motion to Compel will necessitate the extension of current discovery cut-off date (April 4, 2011), including, without limitation, the fact that neither party will have completed agreed-upon document production by April 4, 2011. The parties further agree that for these reasons extension of the discovery cut-off date is in order, along with corresponding extensions in the current due dates for submission of opening, reply and rebuttal statements.

(4) Ordinarily, the parties would submit a proposed revised procedural schedule for the Board's consideration, but, in light of the Director's Decision yesterday, the parties jointly request that the Board enter an order that (i) suspends the discovery cut-off date and other scheduled deadlines pending further order of the Board and (ii) directs that the parties either jointly, or individually, submit a proposal for a revised procedural schedule within five days after the Board rules on BNSF's pending Motion to Compel.


(5) The parties note that the Director's Decision indicates at page 2 that the Board will issue a decision on BNSF's motion to compel "as soon as practicable." As a result, the parties hope and expect that the suspension of the procedural schedule

deadlines will be of short duration. The parties will continue to engage in discovery in the interim and they look forward to moving this case forward.

For the reasons set forth above, the parties jointly request that the Board grant this motion.

Respectfully submitted,


**CARGILL, INCORPORATED**

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Dated: March 25, 2011

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